

1 THE HONORABLE JOHN C. COUGHENOUR  
2  
3  
4  
5  
6  
7  
8

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 IN RE VALVE ANTITRUST LITIGATION

No. 2:21-cv-00563-JCC

10  
11 **STIPULATED SUPPLEMENTAL  
PROTECTIVE ORDER**

12 **NOTE ON MOTION CALENDAR:  
NOVEMBER 14, 2023**

13  
14 WHEREAS, the protections set forth in the Stipulated Protective Order (“Protective  
15 Order”) in the above-captioned case (“Litigation”), *see* Dkt. No. 95, apply and are available to  
16 non-parties as well as parties; and

17 WHEREAS, prior to the disclosure in this matter of their confidential information, non-  
18 parties Microsoft Corporation (“Microsoft”) and ZeniMax Media Inc. (“ZeniMax”) seek  
19 protections in addition to those set forth in the Protective Order;

20 WHEREFORE, IT IS HEREBY ORDERED that “HIGHLY CONFIDENTIAL –  
21 ATTORNEY’S EYES ONLY” documents or information disclosed or produced by non-parties  
22 Microsoft or ZeniMax, or disclosed or produced by parties to the extent such documents or  
23 information contain “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” material of  
24 non-parties Microsoft or ZeniMax, shall be subject to the following provisions:

25  
26  
STIPULATED SUPPLEMENTAL PROTECTIVE  
ORDER – 1  
(No. 2:21-cv-00563-JCC)

1           1.1     The definitions, terms and provisions contained in the Protective Order shall  
2 be incorporated herein by reference as though fully set forth herein; provided, however, that in the  
3 event of a conflict between any definition, term, or provision of this Supplemental Protective Order  
4 and any definition, term, or provision of the Protective Order, this Supplemental Protective Order  
5 shall control with respect to such conflict.

6           1.2     For purposes of production or use of information or items designated  
7 "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" by non-parties Microsoft or  
8 ZeniMax, the term "Expert" shall mean a person with specialized knowledge or experience in a  
9 matter pertinent to the litigation who: (1) has been retained by a party or its counsel to serve as an  
10 expert witness or as a consultant in this action; (2) is not a past or current employee of a party, a  
11 party's competitor, or a competitor of the designating non-party; (3) at the time of retention, is not  
12 anticipated to become an employee of a party, a party's competitor, or a competitor of the  
13 designating non-party; and (4) has signed the "Acknowledgment and Agreement to Be Bound"  
14 (Exhibit A).

15          1.3     Unless otherwise ordered by the Court or permitted in writing by the party  
16 or non-party designating such material, all information or items designated as "HIGHLY  
17 CONFIDENTIAL – ATTORNEY'S EYES ONLY" by non-parties Microsoft or ZeniMax shall  
18 not be disclosed to any person except: (1) Experts (as defined in this Order) to whom disclosure is  
19 reasonably necessary for this litigation; and (2) those listed in subparagraphs (a), (d), (e), (g) and  
20 (h) of paragraph 4.2 of the Protective Order.

21          1.4     Notwithstanding the foregoing paragraph, information or items designated  
22 as "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" by non-parties Microsoft or  
23 ZeniMax may also be disclosed to a person with specialized knowledge or experience in a matter  
24 pertinent to the litigation who has been retained by a party or its counsel to serve as an expert  
25 witness or as a consultant in this action and who is a past or current employee of a competitor of a  
26 party, a party's competitor, or a competitor of the designating non-party or anticipated to become

1 one, provided that before such disclosure, the person shall be identified to the designating non-  
2 party (the “Notice”) along with the name of the company in which the person has been or currently  
3 is an employee or anticipates becoming an employee, and shall also sign the “Acknowledgment  
4 and Agreement to Be Bound” (Exhibit A).

5 (a) A party that provides the Notice to the designating non-party pursuant to Paragraph  
6 1.4 may disclose the subject of the protected material to the identified expert or consultant unless,  
7 within seven (7) calendar days of delivering the Notice, the party receives a written objection from  
8 the designating non-party. Any such objection must set forth in detail the grounds on which it is  
9 based.

10 (b) A party that receives a timely written objection must meet and confer with the  
11 designating non-party to try to resolve the matter by agreement within seven (7) calendar days of  
12 the written objection. If no agreement is reached, the party seeking to prevent the disclosure to the  
13 expert or consultant may, if necessary, file a motion in accordance with the Local Civil Rules to  
14 prevent disclosure. Any such motion must describe the circumstances with specificity, set forth in  
15 detail the reasons why the disclosure to the expert or consultant should be prohibited, assess the  
16 risk of harm that the disclosure would entail, and suggest any additional means that could be used  
17 to reduce that risk. The burden to demonstrate why disclosure should be prohibited shall rest with  
18 the designating non-party.

19 2. Unless otherwise ordered by the Court or expressly permitted by the designating  
20 non-party, no party may file with the Court, or introduce any information or item of non-parties  
21 Microsoft or ZeniMax that has been designated “HIGHLY CONFIDENTIAL – ATTORNEY’S  
22 EYES ONLY” at trial in a manner that will result in disclosure to persons other than: (1) Experts  
23 (as defined in this Order); (2) persons described in paragraph 1.4 above; and (3) those listed in  
24 subparagraphs (a), (d), (e), (g) and (h) of paragraph 4.2 of the Protective Order. In the event a  
25 Party seeks to file with the Court, or introduce any information or item of Non-Parties Microsoft  
26 or ZeniMax designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at trial in

1 a manner that will result in disclosure to persons other than (1) Experts (as defined in this Order),  
 2 (2) persons described in paragraph 1.4 above, and (3) those listed in subparagraphs (a), (d), (e), (g)  
 3 and (h) of paragraph 4.2 of the Protective Order, the Party shall promptly notify in writing the  
 4 designating non-party so that the provisions of paragraphs 4.4 and 5.2(b) of the Protective Order  
 5 may be carried out. The Parties recognize that the purpose of this provision is to provide a  
 6 reasonable opportunity to object to the disclosure of information or items designated "HIGHLY  
 7 CONFIDENTIAL – ATTORNEYS' EYES ONLY" at trial to persons other than Experts (as  
 8 defined in this Order) and those specified in Paragraph 4.3 of the Protective Order (Dkt. 95), and  
 9 agree to provide the notice described in this paragraph with reasonable notice such that the non-  
 10 party may raise any objection.

11       3. Any time a non-party produced document is disclosed in a deposition, whether marked  
 12 as an exhibit or not, the non-party will be notified and then will have the 40 days in 5.2(b) of the  
 13 original order to designate that portion of the transcript as CONFIDENTIAL or HIGHLY  
 14 CONFIDENTIAL.

15       4. For avoidance of doubt, the rights and obligations in paragraph 4.4 of the Protective Order  
 16 apply equally to the filing of non-parties Microsoft's and ZeniMax's designated confidential material  
 17 or information and items designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY.

18  
 19           IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

20           DATED this 14th day of November, 2023.

21           *s/ David Golden*

22           Alicia Cobb, WSBA #48685  
 23           QUINN EMANUEL URQUHART &  
 24           SULLIVAN, LLP  
 25           1109 First Avenue, Suite 210  
 26           Seattle, Washington 98101  
 Telephone (206) 905-7000  
 Fax (206) 905-7100  
 aliciacobb@quinnmanuel.com

Stephanie L. Jensen, WSBA #42042  
 WILSON SONSINI GOODRICH & ROSATI  
 P.C.  
 701 Fifth Avenue, Suite 5100  
 Seattle, WA 98104-7036  
 Telephone (206) 883-2500  
 Fax (206) 883-2699  
 sjensen@wsgr.com

STIPULATED SUPPLEMENTAL PROTECTIVE  
 ORDER

(No. 2:21-cv-00563-JCC) –4

164126907

1 Steig D. Olson (*pro hac vice*)  
2 David LeRay (*pro hac vice*)  
3 QUINN EMANUEL URQUHART &  
4 SULLIVAN, LLP  
5 51 Madison Avenue  
6 New York, New York 10010  
7 Telephone (212) 849-7231  
8 Fax (212) 849-7100  
9 steigolson@quinnmanuel.com

10 Adam Wolfson (*pro hac vice*)  
11 QUINN EMANUEL URQUHART &  
12 SULLIVAN, LLP  
13 865 S. Figueroa St., 10th Floor  
14 Los Angeles, California 90017  
15 Telephone (213) 443-3285  
16 Fax (213) 443-3100  
17 adamwolfson@quinnmanuel.com

18 Charles Stevens (*pro hac vice*)  
19 QUINN EMANUEL URQUHART &  
20 SULLIVAN, LLP  
21 50 California St., 22nd Floor  
22 San Francisco, CA 94111  
23 Telephone (415) 875-6600  
24 Fax (415) 875-6700  
25 charliestevens@quinnmanuel.com

26 *Interim Co-Lead Counsel*

27 David Golden (*pro hac vice*)  
28 CONSTANTINE CANNON LLP  
29 1001 Pennsylvania Ave., 22nd Floor  
30 Washington, D.C. 20004  
31 Telephone (202) 204-4527  
32 Fax (202) 204-3501  
33 dgolden@constantinecannon.com

34 A. Owen Glist (*pro hac vice*)  
35 Ankur Kapoor (*pro hac vice*)  
36 Jeffrey I. Shinder (*pro hac vice*)  
37 CONSTANTINE CANNON LLP  
38 335 Madison Avenue, 9th Floor  
39 New York, NY 10017

40 Kenneth R. O'Rourke (*pro hac vice*)  
41 Allison B. Smith (*pro hac vice*)  
42 WILSON SONSINI GOODRICH &  
43 ROSATI, P.C.  
44 1700 K Street, NW, Suite 500  
45 Washington, DC 20006  
46 Telephone (202) 973-8800  
47 Fax (202) 973-8899  
48 korourke@wsgr.com  
49 allison.smith@wsgr.com

50 W. Joseph Bruckner (*pro hac vice*)  
51 Joseph C. Bourne (*pro hac vice*)  
52 LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
53 100 Washington Avenue S, Suite 2200  
54 Minneapolis, MN 55401  
55 Telephone: (612) 339-6900  
56 Fax: (612) 339-0981  
57 wjbruckner@locklaw.com  
58 jcbourne@locklaw.com

59 *Interim Co-Lead Counsel*

60 s/ Eric A. Lindberg  
61 Gavin W. Skok, WSBA #29766  
62 FOX ROTHSCHILD LLP  
63 1001 Fourth Avenue, Suite 4400  
64 Seattle, WA 98154  
65 Telephone: (206) 624-3600  
66 Fax: (206) 389-1708  
67 gskok@foxrothschild.com

68 Kristen Ward Broz  
69 FOX ROTHSCHILD LLP  
70 2020 K. St. NW, Ste. 500  
71 Washington, DC 20006  
72 Telephone (202) 794-1220

73 STIPULATED SUPPLEMENTAL PROTECTIVE  
74 ORDER

75 (No. 2:21-cv-00563-JCC) -5

76 164126907

1 Telephone (212) 350-2700  
2 Fax (212) 350-2701  
oglist@constantinecannon.com

3 *Interim Co-Lead Counsel*

4 Kenneth J. Rubin (*pro hac vice*)  
5 Timothy B. McGranor (*pro hac vice*)  
6 Kara M. Mundy (*pro hac vice*)  
VORYS, SATTER, SEYMOUR AND PEASE  
LLP  
7 52 East Gay Street  
Columbus, Ohio 43215  
Telephone (614) 464-6400  
9 Fax (614) 719-4796  
10 kjrubin@vorys.com  
tbtmcgranor@vorys.com  
kmmundy@vorys.com

12 Thomas N. McCormick (*pro hac vice*)  
13 VORYS, SATTER, SEYMOUR AND PEASE  
LLP  
14 4675 MacArthur Court, Suite 700  
Newport Beach, California 92660  
15 Phone (949) 526-7903 | Fax (949) 383-2384  
tnmccormick@vorys.com

16 *Executive Committee Members*

18 s/ Cara Wallace  
19 Cara Wallace, WSBA No. 50111  
PERKINS COIE LLP  
20 1201 Third Avenue, Suite 4900  
Seattle, WA 98101  
Telephone (206) 359-8000  
21 cwallace@perkinscoie.com

22 *Attorneys for Microsoft Corporation*

Fax (202) 461-3102  
kbroz@foxrothschild.com

Charles B. Casper (*pro hac vice*)  
MONTGOMERY McCracken Walker  
& Rhoads LLP  
1735 Market Street, 21st Floor  
Philadelphia, PA 19103  
Telephone (215) 772-1500  
ccasper@mmwr.com

Blake Marks-Dias, WSBA No. 28169  
Eric A. Lindberg, WSBA No. 43593  
CORR CRONIN LLP  
1015 Second Avenue, Floor 10  
Seattle, WA 98104  
(206) 625-8600 Phone  
(206) 625-0900 Fax  
bmarksdias@corrchronin.com  
elindberg@corrchronin.com

Attorneys for Defendant Valve Corporation

s/ Cara Wallace  
Cara Wallace, WSBA No. 50111  
PERKINS COIE LLP  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101  
Telephone (206) 359-8000  
cwallace@perkinscoie.com

Attorneys for ZeniMax Media, Inc.

1 PURSUANT TO STIPULATION, IT IS SO ORDERED  
2  
3

4 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any  
5 documents in this proceeding shall not, for the purposes of this proceeding or any other federal or  
6 state proceeding, constitute a waiver by the producing party of any privilege applicable to those  
documents, including the attorney-client privilege, attorney work-product protection, or any other  
privilege or protection recognized by law.

7  
8 DATED this 15th day of November 2023.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26



John C. Coughenour  
UNITED STATES DISTRICT JUDGE